

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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ROBERT CANNIZZARO,

Plaintiff,

v.

Civil Action No. \_\_\_\_\_

CREDENCE RESOURCE MANAGEMENT, LLC.

Defendant.

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## **COMPLAINT AND DEMAND FOR JURY TRIAL**

### **I. INTRODUCTION**

1. This is an action for actual and statutory damages brought in response to Defendant's violations of the Fair Debt Collection Practices Act, 15 U.S.C. § 1692 *et seq.* (hereinafter "FDCPA") which prohibits debt collectors from engaging in abusive, deceptive, and unfair practices.

### **II. JURISDICTION AND VENUE**

2. Jurisdiction of this court arises under 15 U.S.C. §1692k(d) and 28 U.S.C. § 1331.
3. Venue is proper in this district under 28 U.S.C. §1391(b) in that the Defendant transacts business here and the conduct complained of occurred here.

### **III. PARTIES**

4. Plaintiff, Robert Cannizzaro, is a natural person residing in the County of Niagara and State of New York and is a "consumer" as that term is defined by 15 U.S.C. §1692a(3).
5. Defendant, Credence Resource Management, LLC., (hereinafter "CRM") is a foreign limited liability company organized and existing under the laws of the State of Nevada and is a "debt collector" as that term is defined by 15 U.S.C. §1692a(6).
6. Defendant regularly attempts to collect debts alleged to be due another.
7. The acts of the Defendant alleged hereinafter were performed by its employees acting within the scope of their actual or apparent authority.
8. All references to "Defendant" herein shall mean the Defendant or an employee of the Defendant.

#### IV. FACTUAL ALLEGATIONS

9. That Plaintiff allegedly incurred an AT & T Mobility debt. This debt will be referred to as “the subject debt.”
10. That the subject debt arose out of a transaction in which money, services or property, which was the subject of the transaction, was primarily for personal, family and/or household purposes. As such, said debt is a “debt” as that term is defined by 15 U.S.C. §1692a(5).
11. That upon Plaintiff thereafter allegedly defaulted on the subject debt.
12. That on or about December 19, 2019, Plaintiff satisfied the alleged subject debt with the Sunrise Credit Services who at the time was employed by AT&T to collect on the alleged subject debt.
13. In or about July 2020, Defendant started to contact the Plaintiff in an effort to collect the subject debt.
14. In or about July 2020, Plaintiff spoke to the Defendant and told them he did not owe the alleged subject debt and that he had settled it with Sunrise Credit Services. Defendant then stated to the Plaintiff that they were going to report the alleged subject debt on his credit report.
15. In or about July 4, 2020, Plaintiff received an Experian alert that the aforementioned account was in collection status and that the Defendant reported on Plaintiff’s credit that the Plaintiff owed \$110.00 to the Defendant.
16. The above-described collection conduct by Defendant in its efforts to collect this alleged debt from Plaintiff were oppressive, deceptive, misleading, unfair and illegal communications in an attempt to collect this alleged debt, all done in violation of numerous and multiple provisions of the FDCPA.
17. These collection actions taken by Defendant, and the collection employees employed by Defendant, were made in violation of multiple provisions of the FDCPA, including but not limited to all of the provisions of those laws cited herein.
18. These violations by Defendant were knowing, willful, negligent and/or intentional, and Defendant did not maintain procedures reasonably adapted to avoid any such violations.
19. Defendant's collection efforts with respect to this alleged debt from Plaintiff caused Plaintiff to suffer concrete and particularized harm because the FDCPA provides Plaintiff with the legally protected right to be treated fairly and truthfully with respect to any action for the collection of any consumer debt.

20. Defendant's deceptive, misleading and unfair representations with respect to its collection effort were material misrepresentations that affected and frustrated Plaintiff's ability to intelligently respond to Defendant's collection efforts.
21. That as a result of Defendant's acts Plaintiff became nervous, upset, anxious, and suffered from emotional distress.

#### **V. CAUSE OF ACTION**

22. Plaintiff repeats, re-alleges and incorporates by reference the allegations contained in paragraphs 1 through 21 above.
23. The conduct of Defendant as described in this complaint violated the Fair Debt Collection Practices Act (15 U.S.C. § 1692 et seq.) as follows:
- A. Defendant violated 15 U.S.C. §1692e(8) by reporting an inaccurate tradeline on Plaintiff's credit report by stating Plaintiff owed \$110.00 when Plaintiff did not owe the subject debt.
  - B. Defendant violated 15 U.S.C. §1692e, e(2), e(5), e(10), f, and f(1) by attempting to collect a debt from the Plaintiff that he did not owe.
24. That as a result of the Defendant's FDCPA violations as alleged herein, Plaintiff became nervous, upset, anxious and suffered from emotional distress.

**WHEREFORE**, Plaintiff respectfully requests that judgment be entered against the Defendant for:

- (a) Actual damages;
- (b) Statutory damages for pursuant to 15 U.S.C. § 1692k.
- (c) Costs, disbursements and reasonable attorney's fees pursuant to 15 U.S.C. § 1692k.
- (d) For such other and further relief as may be just and proper.

**VI. JURY DEMAND**

Please take notice that Plaintiff demands trial by jury in this action.

Dated: April 26, 2021

/s/ Seth J. Andrews  
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